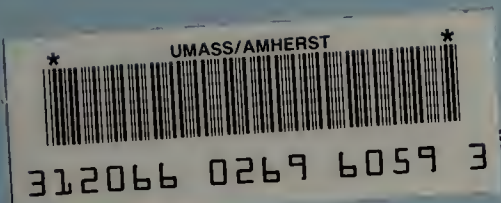


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THE COMMONWEALTH OF MASSACHUSETTS

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Charter School Law and Regulations

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Massachusetts Charter School Law

Massachusetts General Laws Chapter 71, Section 89.¹

Section 89. A charter school shall be a public school, operated under a charter granted by the board of education, which operates independently of any school committee and is managed by a board of trustees. The board of trustees of a charter school, upon receiving a charter from the board of education, shall be deemed to be public agents authorized by the commonwealth to supervise and control the charter school.

The purposes for establishing charter schools are: (1) to stimulate the development of innovative programs within public education; (2) to provide opportunities for innovative learning and assessments; (3) to provide parents and students with greater options in choosing schools within and outside their school districts; (4) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management; (5) to encourage performance-based educational programs and; (6) to hold teachers and school administrators accountable for students' educational outcomes.

Persons or entities eligible to submit an application to establish a charter school shall include, but not be limited to, a business or corporate entity, two or more certified teachers or ten or more parents. Said application may be filed in conjunction with a college, university, museum or other similar entity. Private and parochial schools are not eligible for charter school status.

The board of education shall establish the information needed in an application for the approval of a charter school; provided, however, that said application shall include the method for admission to a charter school. There shall be no application fee for admission to a charter school.

Applications to establish a charter school shall be submitted each year by February fifteenth. The board of education shall review the applications no later than March fifteenth.

The board of education shall make the final determination on granting charter school status and may condition charters on the charter school's taking certain actions or maintaining certain conditions. No more than twenty-five charter schools shall be allowed to operate in the commonwealth at any time. Of these, no more than five shall be located in the city of Boston; no more than five shall be located in the city of Springfield; and no more than two shall be located in any other city or town. Under no circumstances shall the total number of students attending charter schools in the commonwealth be allowed to be greater than three quarters of one percent of the total number of students attending public schools in the commonwealth.

A charter school established under a charter granted by the board shall be a body politic and corporate with all powers necessary or desirable for carrying out its charter program, including, but not limited to, the following:

(a) to adopt a name and corporate seal; provided, however, that any name selected must include the words "charter school";

(b) to sue and be sued, but only to the same extent and upon the same conditions that a town can be sued;

¹ The Massachusetts charter school statute (M.G.L. Chapter 71, Section 89) became law when Governor William F. Weld signed the Education Reform Act of 1993 on June 18, 1993.

(c) to acquire real property, from public or private sources, by lease, lease with an option to purchase, or by gift, for use as a school facility;

(d) to receive and disburse funds for school purposes;

(e) to make contracts and leases for the procurement of services, equipment and supplies; provided, however, that if the board intends to procure substantially all educational services under contract with another person, the terms of such a contract must be approved by the board, either as part of the original charter or by way of an amendment thereto; and provided, further, that the board shall not approve any such contract terms, the purpose or effect of which is to avoid the prohibition of this section against charter school status for private and parochial schools.

(f) to incur temporary debt in anticipation of receipt of funds;

(g) to solicit and accept any grants or gifts for school purposes;

(h) to have such other powers available to a business corporation formed under chapter one hundred and fifty-six B that are not inconsistent with this chapter.

Charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language, and academic achievement. Charter schools may limit enrollment to specific grade levels or areas of focus of the school, such as mathematics, science, or the arts.

A charter school may establish reasonable academic standards as a condition for eligibility for applicants. Preference for enrollment in a charter school shall be given to students who reside in the city or town in which the charter school is located. If the total number of students who are eligible to attend and apply to a charter school and who reside in the city or town in which the charter school is located, or are siblings of students already attending said charter school is greater than the number of spaces available, then an admissions lottery shall be held to fill all of the spaces in that school from among said students. If there are more spaces available than eligible applicants from the city or town in which said charter school is located and who are siblings of current students, and more other eligible applicants than spaces left available, then a lottery shall be held to determine which of said applicants shall be admitted. Notwithstanding the provisions of this paragraph, upon application by the board of trustees of a charter school or by the persons or entities seeking to establish a charter school, the board of education may amend or grant a charter designating such school a regional charter school; provided however, that such regional charter school shall be exempt from the local preference provision of this paragraph; provided, further, that such regional charter school shall continue to grant a preference of siblings of currently enrolled students; and provided, further, that if the number of applicants remaining is greater than the number of spaces available, such regional charter school shall conduct a single lottery to determine which applicants shall be admitted.² There shall be no tuition charge for students attending charter schools.

A student may withdraw from a charter school at any time and enroll in a public school where said student resides. A student may be expelled from a charter school based on criteria determined by the board of trustees, and approved by the board of education, with the advice of the principal and teachers.

² This sentence, beginning with "Notwithstanding..." was approved April 25, 1996, by Chapter 72 (H.B. No. 5129)

A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building, or any other suitable location. A charter school may own, lease, or rent its space.

A charter school shall operate in accordance with its charter and the provisions of law regulating other public schools; provided, however, that the provisions of sections forty-one and forty-two shall not apply to employees of charter schools. Charter schools shall comply with the provisions of chapters seventy-one A and seventy-one B; provided, however, that the fiscal responsibility of any special needs student currently enrolled in or determined to require a private day or residential school shall remain with the school district where the student resides.

Students in charter schools are required to meet the same performance standards, testing and portfolio requirements set by the board of education for students in other public schools.

The board of trustees, in consultation with the teachers, shall determine the school's curriculum and develop the school's annual budget. Employees of charter schools shall be considered public employees for purposes of tort liability under chapter two hundred and fifty-eight and for collective bargaining purposes under chapter one hundred and fifty E. The board of trustees shall be considered the public employer for purposes of tort liability under said chapter two hundred and fifty-eight and for collective bargaining purposes under chapter one hundred and fifty E. Teachers employed by a charter school shall be subject to the state teacher retirement system under chapter thirty-two and service in a charter school shall be "creditable service" within the meaning thereof.

Each local school district shall be required to grant a leave of absence to any teacher in the public schools system requesting such leave in order to teach in charter schools. A teacher may request a leave of absence for up to two years.

At the end of the two year period, the teacher may make a request to the superintendent that such leave be extended for an additional two years, and approval for said request shall not be unreasonably withheld or he may return to his former teaching position. At the end of the fourth year, the teacher may either return to his former teaching position or, if he chooses to continue teaching at the charter school, resign from his school district position.

Notwithstanding section fifty-nine C of this chapter, the internal form of governance of a charter school shall be determined by the school's charter.

A charter school shall comply with all applicable state and federal health and safety laws and regulations.

The children who reside in the school district in which the charter school is located shall be provided transportation to the charter school by the resident district's school committee on the same terms and conditions as transportation is provided to children attending local district schools. Students who do not reside in the district in which the charter school is located shall be eligible for a transportation in accordance with section twelve B of chapter seventy-six.

Each charter school shall submit to the board, to each parent or guardian of its enrolled students, and to each parent or guardian contemplating enrollment in that charter school an annual report. The annual report shall be issued no later than August first of each year for

the preceding school year. The annual report shall be in such form as may be prescribed by the board of education and shall include at least the following components:

(a) discussion of progress made toward the achievement of the goals set forth in the charter;

(b) a financial statement setting forth by appropriate categories, the revenue and expenditures for the year just ended.

Individuals or groups may complain to a charter school's board of trustees concerning any claimed violation of the provisions of this section by the school. If, after presenting their complaint to the trustees, the individuals or groups believe their complaint has not been adequately addressed, they may submit their complaint to the board of education who shall investigate such complaint and make a formal response.

A charter granted by the board of education shall be for five years. The board of education may revoke a school's charter if the school has not fulfilled any conditions imposed by the board of education in connection with the grant of the charter or the school has violated any provision of its charter. The board may place the charter school on a probationary status to allow the implementation of a remedial plan after which, if said plan is unsuccessful, the charter may be summarily revoked.

The board shall develop procedures and guidelines for revocation and renewal of a school's charter.

Notwithstanding the foregoing, no school building assistance funds, so called, shall be awarded to a charter school for the purpose of constructing, reconstructing or improving said school.

Charter schools shall be funded as follows: If a student attending a charter school resides in a community with a positive foundation gap, the district of the city or town in which said student resides shall pay to the charter school an amount equal to the average cost per student in said district. If a student attending a charter school resides in a community that does not have a positive foundation gap pursuant to chapter seventy, the district of the city or town in which said student resides shall pay to the charter school an amount equal to the lesser of: (1) the average cost per student in said district; and (2) the average cost per student in the district in which the charter school is located.

Charter School Regulations

601 CMR 1.00: *Procedures for the Establishment of Charter Schools*

Section

- 1.01: Scope, Purpose, and Authority
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1.01: Scope, Purpose and Authority

(1) Application. 601 CMR 1.00 shall apply to the Board of Education, charter schools, including Boards of Trustees, administrators and personnel, public school districts with students attending charter schools, charter school students and their parents or guardians.

(2) Purpose. The purpose of 601 CMR 1.00 is to provide uniform rules and procedures governing the establishment of charter schools.

(3) Authority. 601 CMR 1.00 is promulgated under the authority of M.G.L. c. 15A, § 3, M.G.L. c. 71, M.G.L. c. 76, § 12B, and any successor provisions thereto.

1.02: Definitions

As used in 601 CMR, unless the context clearly requires otherwise, terms shall have the meanings ascribed below:

Administrator. Any individual duly authorized by a charter school's Board of Trustees to manage the programs and operations of the charter school in accordance with its charter and federal and State laws and regulations.

Application Cycle. The one year period ending February 15 during which charter school applications are received by the Board of Education for review by March 15.

Board of Trustees. Public agents authorized by the state to supervise and control the charter school. The Boards of Trustees shall be considered public employers for purposes of tort liability under M.G.L. c. 258, and for collective bargaining purposes under M.G.L. c. 150E.

Charter. A grant issued by the Board of Education per the provisions of M.G.L. c. 71, § 89 and 601 CMR 1.00 allowing the grantee to operate a charter school for a period of five years.

Charter Applicant. An applicant shall include but is not limited to: individuals; groups; business or corporate entities; two or more certified teachers; or ten or more parents qualified under M.G.L. c. 71, § 89 to apply for a charter. An application for a charter school may be filed in conjunction with a college, university, museum, or other similar entity, or any combination thereof.

Charter School. A public school operated under a charter granted by the Board of Education which operates independently of any school committee and is managed by a Board of Trustees.

Board. The Board of Education or a person duly authorized by the Board.

Sending District. A Massachusetts city, town, or regional school district in which a charter school student resides and where the student would otherwise attend a public school.

1.03: General Provisions

(1) Administrative Bulletins. The Board of Education may, from time to time, issue administrative bulletins to interpret, implement, and provide guidance on 601 CMR 1.00.¹

(2) Waivers. Upon written request from a charter applicant or charter school Board of Trustees, the Board of Education may waive the applicability of one or more provisions of 601 CMR 1.00, provided that all such requests and approvals are:

- (a) in writing, signed by the waiver applicant;
- (b) specify the provisions of 601 CMR 1.00 to be waived, the duration of the waiver, and the circumstances to which the waiver applies;
- (c) include a certification that the waiver applicant has made a good faith effort to comply with said provisions; and
- (d) are accompanied by supporting documentation considered sufficient by the Board of Education to support the special circumstances or the need for relief.

Waivers of 601 CMR 1.00 will be considered only under circumstances the Board of Education deems exceptional and shall be granted only to the extent allowed by law.

(3) Prohibitions. Private and parochial schools are not eligible for charter school status. Charter schools may not charge students an application fee, nor may charter schools charge tuition to any student who is a resident of the Commonwealth.

1.04: Charter Application and Charter Granting Procedures

(1) Charter Application Process. There shall be a two-stage application process leading to the granting of a charter. In order to receive feedback from the review team and to be scheduled for a formal interview with the Board of Education, applicants shall submit to the

¹ A number of Technical Advisories have been issued since 1994 pursuant to these regulations.

Board of Education a preliminary application no later than the third Monday of November. Final applications must be submitted to the Board of Education by February 15, on any application forms and under any guidelines the Board of Education may establish.

(2) Review Process. The Board of Education shall review all preliminary applications submitted by the deadline and will attempt to provide feedback to applicants by January 15. In addition, the Board of Education will attempt to conduct interviews with all preliminary applicants, in order to better assess their qualifications to start a charter school. The Board of Education will review all final applications by March 15 and will notify applicants promptly of the final decisions. Applications will be reviewed according to criteria outlined in 601 CMR 1.05. The Board of Education may be assisted in this review process by an advisory panel comprised of individuals appointed by the Board of Education. Members of the advisory panel may review applications and participate in interviews with applicants. The panel's role shall be solely advisory in nature.

(3) Charter Granting. Charters will be granted to approved charter applicants under such conditions and at such time as the Board of Education specifies under 601 CMR 1.05(2). A charter granted by the Board of Education shall be effective for five years, unless revoked pursuant to M.G.L. c. 71, § 89, and 601 CMR 1.11.

1.05: Criteria for Assessment and Approval of Charter Applications, Awarding of Charters

(1) Criteria for Assessment and Approval of Charter Applications. Charter applications will be reviewed to ensure that the applicant has demonstrated an ability to meet the following criteria:

(a) furtherance of the purposes for establishment of charter schools, which are:

(1) to stimulate the development of innovative programs within public education;

(2) to provide opportunities for innovative learning and assessments;

(3) to provide parents and students with greater options in choosing schools within and outside their school districts;

(4) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management;

(5) to encourage performance-based educational programs; and

(6) to hold teachers and school administrators accountable for students' educational outcomes.

(b) conformance with M.G.L. c. 71, § 89 and all other applicable laws and regulations including any guidelines the Board of Education may issue;

(c) assurance that the charter school will meet its enrollment requirements through demonstration of need and support for the proposed charter school in the community in which it would be located and in other communities from which students would be likely to apply;

- (d) demonstration that the applicant will be able to provide educational models, including programs, curriculum, and teaching methods that can be replicated by other public schools;
- (e) development of a management structure and plan which enables the charter school to achieve the goals and mission set forth in its charter, including the selection, role, and responsibilities of the Board of Trustees;
- (f) assurance that students will meet the same performance standards, testing and portfolio requirements set by the Board of Education for students in other public schools;
- (g) development of an assessment plan to measure progress toward the goals set forth in its charter;
- (h) ability of the charter school to administer its educational programs, school operations, and finances effectively;
- (i) establishment of a process to provide to students, parents, the Board of Education, other interested parties, and the public all information required by law and regulation, as well as to provide other information the Board of Education may request;
- (j) development of an admissions policy which takes into consideration the following factors:
 - (1) reasonable academic standards may be used to determine the eligibility threshold for admission, but they must be consistent with the school's area of focus and grade levels, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language, or prior academic achievement;
 - (2) methods for determining eligibility for admission -- including, but not limited to testing, interviews, and recommendations -- shall not be designed, intended or used to discriminate;
 - (3) in conformance with M.G.L. c. 71, § 89, in such cases where there are more eligible applicants than available spaces, the charter school shall hold an admissions lottery for applicants who reside in the city or town in which the charter school is located, or who are siblings of students already attending said charter school; and
 - (4) if there are more spaces available than eligible applicants from the city or town in which said charter school is located and who are siblings of current students, and there are more eligible applicants than spaces available, the charter school shall hold an admissions lottery;
 - (5) if the principal admissions process fails to produce an adequate number of enrolled students, a school may repeat the process -- more than once, if necessary -- providing such process is fair and open, with reasonable public notice given at least one week prior to the application deadline. As spaces become available during the school year, a school may repeat the admissions process to fill these openings. No student entering an admissions process may be admitted ahead of other eligible

students who were previously placed on a waiting list during a prior admissions process;

(6) applicants may propose an admissions process that is integrated with that of the school district, providing the application is submitted in conjunction with the local school district and such district maintains an intra-district school choice admissions program;

(7) age thresholds and ceilings must be specified for schools offering kindergarten and/or high school programs, respectively.

(k) development of a plan which demonstrates the ability to accomplish the following:

(1) recruitment and retention of students;

(2) recruitment of qualified teaching and managerial staff; and

(3) fiscal and operational viability for the five-year term of the charter.

(l) thoroughness and accuracy of the charter school application.

(m) demonstration that the applicant has access to school facilities that are in compliance with state and municipal building codes, affordable, and adequate to meet the school's program requirements.

(2) Conditions for Awarding of Charters to Approved Applicants. Charters shall be awarded subject to the conditions listed below, and any additional conditions that the Board of Education may specify. The Board of Education may temporarily waive such conditions and award individual charters, providing the applicant submits adequate written assurance that all such conditions will be met prior to the opening of the school. Failure to comply with any specified condition prior to the opening of the school would constitute grounds for placing a charter school on probation.

(a) the charter applicant shall provide the Board of Education with the names, addresses, and employment and educational histories for the proposed members of the Board of Trustees, a plan for the administration and management of the school, including the organization structure and by-laws;

(b) in such cases where the charter school Board of Trustees intends to procure substantially all educational services under contract with another person, the Board of Trustees shall provide for the Board of Education's approval the terms of said contract;

(c) the charter applicant shall submit to the Board of Education for approval a copy of the school's code of conduct outlining the criteria and procedure for expulsion of students;

(d) the charter applicant shall provide the Board of Education with written documentation that the building in which the charter school is located is approved for use as a school by the building inspector in the municipality in which the charter school is located;

(e) the charter applicant shall provide the Board of Education with written documentation that the premises occupied by the charter school has been inspected by the Fire Department of the municipality in which the charter school is located;

(f) if explosives or flammable compounds or liquids are used in connection with courses taught at the school, the charter applicant shall provide the Board of Education with written documentation that approval under M.G.L. c. 148 has been secured from the licensing authority of the municipality in which the school is located; and

(g) the charter applicant shall provide the Board of Education with written documentation that the school is in compliance with all other applicable federal and state health and safety laws and regulations, including evidence of compliance with any required insurance coverage.

(3) Information for Distribution of Public Funds. Upon receiving its charter, a charter school shall provide the Treasurer with a federal tax identification number issued solely to the charter school, and banking information regarding a bank account solely in the name of the charter school, as required by the Treasurer for the transfer of public funds.

1.06: Charter School Funding

The following funding mechanism shall apply to the charter school and to the sending district:

(1) Any operating charter school shall be entitled to receive per-pupil payments from a sending district(s) equal to the average cost per student in said district(s), in accordance with M.G.L. c. 71, § 89.

(2) The average cost per student amounts shall be determined by the Department of Education in accordance with Department data on spending and enrollment in each school district and based on guidelines set forth and published by the Board of Education in consultation with the Secretary of Administration and Finance. Such guidelines shall include a listing of those categories of school district expenditure that will and will not be counted toward the average cost per student amounts. Such guidelines shall also include a method for estimating average cost per student amounts for the first two quarters of each fiscal year. Average cost per student calculations for the last two quarters of each fiscal year shall be based on the most recent spending and enrollment reports submitted to the Department of Education by each school district.

(3) The total amounts payable to each charter school shall be determined by the Board of Education, using average cost per student data provided by the Department of Education and charter school enrollment data provided by the charter schools.

(4) Payments to charter schools shall be made quarterly by the Commonwealth. In making such payments, the Commonwealth shall reduce each sending district's Chapter 70 allocation by an amount sufficient to meet its charter school obligations for the quarter. If there are insufficient Chapter 70 funds to meet a district's obligation, the Commonwealth shall reduce other state aid allocated to the applicable cities and towns. If there are insufficient state aid funds of any kind to meet a district's obligation, the Board of Education shall recommend to the Governor and legislature that a supplemental appropriation be made to pay any remaining obligation to the applicable charter school(s).

(5) The Board of Education shall notify both the charter school and the sending district(s) of the amount of these Chapter 70 reductions.

(6) The first two quarterly payments to charter schools shall be based on each charter school's pre-enrollment report, filed with the Board of Education pursuant to 601 CMR 1.07(2). The last two quarterly payments of each fiscal year shall be based on updated enrollment reports, submitted to the Department of Education by each charter school. Although each quarterly payment is intended equal approximately one quarter of the projected annual amount, payments in the final two quarters of each fiscal year shall include adjustments to correct any over- or under-payments in the first two quarters.

(7) In its first year of operation, a charter school shall receive its first quarter payment within forty-five days after the start of the Commonwealth's fiscal year. The remaining three payments shall occur at the end of the Commonwealth's second, third, and fourth fiscal quarters. After its first year of operation, a charter school shall receive all of its quarterly payments, including its first quarter payment, at the end of the Commonwealth's fiscal quarters. The timing of all payments to charter schools is subject to the timely enactment of the Commonwealth's annual budget.

(8) In order to facilitate the acquisition of cash-flow financing, charter schools may be eligible for advance certification of quarterly payments, issued by the Board of Education and the Secretary of Administration and Finance. At least five days prior to the close of each fiscal quarter, the Board of Education and the Secretary of Administration and Finance will certify to eligible charter schools the amount the Commonwealth will pay to such schools at the end of the subsequent quarter, notwithstanding a failure of the school to continue operations or a revocation by the Board of Education of the school's charter. To be eligible for advance certification a charter school must submit to the Board of Education, prior to each quarterly certification, financial data necessary to ascertain the school's financial stability and solvency. Such data shall include an updated month-by-month cash flow statement for the current fiscal year and any other data that the Board of Education may specify. If a charter school receiving advance certification of its quarterly payments ceases operations or if its charter is revoked, the actual quarterly payment by the Commonwealth to the charter school may be less than the certified amount, if a lesser amount is sufficient to satisfy any outstanding loan balances to any secured party holding a perfected security interest.

1.07: Ongoing Review of Charter Schools

(1) Annual Report. A charter school shall submit to the Board of Education, to each parent or guardian of its enrolled students, and to each parent or guardian contemplating enrollment in that charter school, an annual report. The annual report shall be issued no later than August first of each year for the preceding school year. The annual report shall include the following information:

(a) a financial statement setting forth by appropriate categories the revenue and expenditures for the year just ended, and a balance sheet setting forth the charter school's assets, liabilities, and fund balances or equities;

(b) projections of income and expenses for the upcoming school year;

(c) discussion of progress made toward achievement of the goals of the charter; and

(d) such other information as the Board of Education may require in guidelines.²

(2) Enrollment Report: Each charter school shall conclude its principal admissions process no later than April 15 of each year, and shall file annually with the Board of Education a pre-enrollment report no later than May 1. Said report will provide data on charter school enrollment figures for the subsequent academic year, student residence, and other student and school demographic data as specified. The report shall be filed on a form provided by the Board of Education. Each charter school shall submit additional enrollment reports during the school year, including reports required by the Department of Education for all public schools receiving out-of-district transfer students under the inter-district school choice program.

(3) Additional Reports. The charter school shall be responsible for filing any data reports or school returns as required under public school law and regulations. The schedule and form of the reports shall be set forth in guidelines. Such reports shall be available to the Board of Education and to the public.

(4) Code of Conduct. The charter school shall submit to the Board of Education for approval copies of any changes in the code of conduct outlining criteria and procedure for expulsion of students.

(5) Notification of New Circumstances. The Board of Education shall be notified in writing immediately of any change in circumstances that may have a significant impact on a charter school's ability to fulfill its goals or mission as stated in its charter. Within 30 days after receiving such notice, the Board of Education shall determine whether any remedial action is required, including revocation of the charter or placing the charter school on probation under 601 CMR 1.11.

(6) Additional Information. At the discretion of the Board of Education, charter schools may be required to submit additional information other than that specifically required by 601 CMR 1.00. This information may include an audit of the charter school's financial records.

(7) Signatory Authorization. Any information supplied to the Board of Education by the charter school under 601 CMR 1.07 must be signed by an individual given signatory authorization by the charter school Board of Trustees. All such information is submitted under penalty of perjury.

1.08: Complaint Procedure

(1) A parent, guardian or other individuals or groups who believe that a charter school has violated or is violating any provision of M.G.L. c. 71, § 89 or 601 CMR 1.00 may file a complaint with the charter school's Board of Trustees.

(2) The Board of Trustees shall respond no later than thirty days from receipt of the complaint in writing to the complaining party.

(3) The Board of Trustees shall, pursuant to a complaint received under 601 CMR 1.08, or on its own initiative, conduct reviews to ensure compliance with M.G.L. c. 71, § 89 and 601 CMR 1.00. The charter school and the specific individuals involved shall cooperate to the fullest extent with such review.

² Technical Advisory 96-1 lists the information charter schools must include in the annual report.

(4) To the extent the complaining party believes the complaint has not been adequately addressed by the charter school Board of Trustees, the complaining party may submit the complaint in writing to the Board of Education who shall investigate such complaint and make a formal response.

(5) In the event the charter school is found in non-compliance with M.G.L. c. 71, § 89 or 601 CMR 1.00, as a result of a complaint or upon investigation, the Board of Education may take such action as the Board of Education deems appropriate, including, but not limited to revocation of the charter under 601 CMR 1.11, or referral of the matter to the District Attorney or the Office of the Attorney General for appropriate legal action.

1.09: Amendments to Charters

(1) If a charter school plans to change materially its program or governance, the Board of Trustees shall submit in writing to the Board of Education a request to amend its charter. Material changes requiring a charter amendment include, but are not limited to, any change in the membership of a charter school's Board of Trustees, and substantive modifications to a charter school's educational philosophy or mission, school schedule, admissions process, governance structure, by-laws, school management contract, code of conduct, enrollment capacity, or school location.

(2) With the exception of requests to change the membership of a charter school's Board of Trustees, amendment requests will be deemed approved if the Board of Education does not issue a denial within 30 days after receiving such requests. Proposals to change the membership of a charter school's Board of Trustees must be accompanied by background information on each new member, as specified under 601 CMR 1.05(2)(a), and may not take effect until the Board of Education provides written approval of the amendment request. Such approval will not be unreasonably withheld.

1.10: Renewal of Charters

The following procedures shall be followed by a charter school seeking renewal of its charter:

(1) Application for renewal of a charter to operate a charter school under 601 CMR 1.00 shall be made no later than August 1 after the end of fourth school year. The Board of Education shall notify the charter applicant of the decision to renew or not to renew the charter no later than the following December 1.

(2) The charter school may apply for renewal of its charter under renewal application guidelines established by the Board of Education.

(3) All charter school renewals will be subject to an evaluation process which will be set forth in guidelines established by the Board of Education. All charter schools will be evaluated on the same performance criteria as provided in the guidelines, provided, however, that the criteria will take into account each school's own statement of purposes and objectives, assuming this statement complies with applicable provisions of M.G.L. c. 71 or with any other applicable law or regulation.³

³ The means by which the Board of Education will evaluate and hold charter schools accountable are described in Technical Advisory 96-1.

(4) Before charter renewal, the charter school shall submit written documentation that the school remains in compliance with all building, health, safety and insurance requirements established as conditions for charter granting in 601 CMR 1.05(2) and that all related inspections and approvals are current.

(5) The Board of Education will review renewal applications pursuant to the criteria set forth in 601 CMR 1.05 and M.G.L. c.71, §89 and notify applicants by December 1 of the fifth year of operation of the approval or denial of the renewal application and the reasons therefor. In the event the renewal is denied, the charter school shall have all rights of review as provided in M.G.L. c. 30A and 801 CMR 1.00.

(6) Charters which are renewed shall be for five years from the expiration of the previous charter under such conditions as the Board of Education may establish under 601 CMR 1.05(2). Charters of schools which do not file renewal applications shall expire at the end of the fifth year of the charter grant.

1.11: Charter Revocation and Probation.

(1) The Board of Education may revoke a charter issued under 601 CMR 1.05(2) for cause, including but not limited to:

- (a) a material misrepresentation in the application for approval of the charter;
- (b) failure to comply substantially with the terms of the charter, with any of the applicable provisions of M.G.L. c.71, or with any other applicable law or regulation;
- (c) financial insolvency;
- (d) misappropriation, conversion, mismanagement, or illegal withholding of funds or refusal to pay any funds that belong to any person otherwise entitled thereto and that have been entrusted to the charter school or its administrators in their fiduciary capacities;
- (e) fraud or gross mismanagement on the part of charter school administrators or Board of Trustees;
- (f) criminal convictions on the part of the charter school or its Board of Trustees; or
- (g) failure to fulfill any conditions imposed by the Board of Education in connection with the grant of a charter.

(2) Before the revocation of a charter by the Board of Education, the charter school shall be given written notice that the Board of Education intends to revoke a charter. The notice shall be given sixty days before the revocation takes effect.

(3) Upon receiving a notice of intent to revoke a charter, or notice of an emergency revocation where the health, safety or education of the school's students is at immediate risk, the school shall have all rights of review as provided in M.G.L. c. 30A, § 13, and 801 CMR 1.00. All requests for hearings, where hearings are provided by said statutes, shall be in writing, addressed to the Board of Education, and must be received within fifteen days of receipt by the charter school of the notice to revoke a charter.

(4) The Board of Education may place a charter school on probation, rather than revoke its charter, in order to allow for the implementation of a remedial plan approved by the Board of Education. If after sixty days, or such longer period as the Board of Education may specify, said plan is unsuccessful in remediating the problem or alleviating the causes of the probation, the Board of Education may summarily revoke the charter.

(5) Prior to a charter school's first year of operation, the Board of Education may withhold payments to any charter school placed on probation. A decision to withhold such payments shall be made no later than sixty days prior to the scheduled date of the first quarter payment, in order to allow sufficient time for the charter school to implement the remedial plan.

(6) Upon the revocation, non-renewal, or voluntary return of a charter, title to all of the property of the charter school shall immediately vest in the Commonwealth, subject to the rights of any secured party holding a perfected security interest in the property of such charter school. Any funds remaining after the satisfaction of the charter school's obligations shall be deposited in the General Fund. This regulation shall not apply to the extent the charter school or any other interested party demonstrates that charter school property was purchased solely by, or solely with funds paid to the school by persons or entities other than the Commonwealth, in which case ownership of the property shall be transferred to such persons or entities, unless otherwise voted by the Board of Trustees.

1.12: Severability Clause

If any section or portion of a section of 601 CMR 1.00, or the applicability of 601 CMR 1.00 to any person, entity or circumstance is held invalid by a court, the remainder of 601 CMR 1.00 or the applicability of such provisions to other persons, entities or circumstances shall not be affected thereby.

REGULATORY AUTHORITY

MGL. c.15A, § 3; MGL c.71; MGL c.76, § 12B.
Charter School Regulations - 601 CMR 1.00

